



Supplier Diversity Office (SDO) Construction Reform Program FAQ's

1. Question: *What is the SDO Construction Reform Program?*

Answer: The SDO's Construction Reform Program ensures that municipalities incorporate Minority Business Enterprise (MBE) and Women Business Enterprise (WBE) goals into both the design and construction phases of any project funded in whole or in part by the Massachusetts School Building Authority (MSBA) and other funding sources, including legislative appropriations, grant awards, reimbursements and municipal commitments to use state funds.

2. Question: *Where can you find a list of SDO certified companies?*

Answer: A list of all currently certified SDO companies in the design and construction fields is available on the SDO website -
<https://www.somwba.state.ma.us/BusinessDirectory/BusinessDirectory.aspx> You may download the directory at
<https://www.somwba.state.ma.us/BusinessDirectory/BusinessDirectoryDownload.aspx>

3. Question: *What is a Pre-Advertising request to adjust or waive the MBE and WBE participation goals?*

Answer: A request submitted in writing to the SDO Director of Construction Reform by a municipality prior to advertising a public project to reduce or waive the MBE and WBE participation goals. It must be received no less than fourteen (14) business days before the deadline for placement of the advertisement. The letter must explain why there is difficulty meeting the MBE and WBE goals along with supporting evidence. More information be found in the Municipality General Guidelines (Attachment A)

4. Question: *What is a Pre-Bid request to adjust or waive the MBE and WBE Participation Goals*

Answer: A written request submitted by a prospective bidder to the Awarding Authority requesting to reduce or waive the MBE and WBE participation goals. It can be received no later than Ten (10) business days before the general bids are due. The request must demonstrate to the satisfaction of the awarding authority that there is no feasible way for a non-MBE or non-WBE General Bidder to meet the MBE and WBE goals established for the contract and that a Diligent Good Faith Effort was made to comply. If these criteria are met the Awarding Authority must submit the General Bidders request to SDO Director of Construction Reform.



5. **Question:** *What is the exact meaning of "projects with a combined goal must include a reasonable representation of both MBE and WBE firms to meet or exceed the combined goal".*

Answer: While the new project goals combine MBE and WBE goals, it is expected that the percentages for MBE and WBE spending will still closely mirror the pre Jan 1, 2012 individual MBE and WBE goals for both the design and construction phases of the project. If these goals cannot be attained by a designer or general contractor, then the MBE and WBE spending is expected to exceed the combined goal.

6. **Question:** *Can a designer or general contractor (GC) change a MBE and WBE vendor once they have been contracted for a project as part of the MBE and WBE participation goals?*

Answer: If at any time during the performance of the Contract the Designer or General Contractor determines or has reason to believe that a scheduled MBE or WBE is unable or unwilling to perform its work or that there has been or will be a change in any MBE or WBE work (Change Order), or that the Designer or GC will be unable to meet the MBE and WBE participation goals for this Contract for any reason, the Designer or GC shall immediately notify the Awarding Authority. In most cases the Awarding Authority will be represented by the Owners Project Manager (OPM). The Awarding Authority will require the Designer or GC to conduct a search for a replacement MBE and WBE.

7. **Question:** *Are the Construction Reform Law MBE and WBE goals requirements?*

Answer: The apparent low bidder for a project will submit within five (5) working days after the bids have been open their MBE and WBE Schedule of Participation for the project, along with each subcontractor's letters of Intent, and the SDO's most recent certification letter. The Awarding Authority shall review and either approve or disapprove the apparent low Bidder's submissions. If the apparent low Bidder has not submitted an appropriate Schedule for MBE and WBE participation and appropriate Letters of Intent and the SDO's most recent certification letter establishing that the MBE and WBE participation goal for the project will be met, the apparent low Bidder will be considered **ineligible** for Award of the Contract. The Awarding Authority will then award the contract to the second lowest eligible and responsible Bidder, subject to said Bidder's compliance with these conditions. If funds are insufficient to award to the second lowest Bidder, the project may have to be re-bid.